

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JUST FOR JESUS CHALLENGE)
HOMELESS OUTREACH, a Pennsylvania)
non-profit corporation; FIRST APOSTLES')
DOCTRINE CHURCH; REVEREND)
JACK L. WISOR,)

Plaintiffs,

vs.

BOROUGH OF BROOKVILLE, PA;)
ROBERT RECESKI, MARK HUMES,)
VINCENT MARKLE, DAVID)
VALLOSIO, in their official and individual)
capacities,)

Defendants.)

CIVIL ACTION NO. 2:08-cv-1584

(Ambrose, C.J.)

CONSENT ORDER MEMORIALIZING PERMANENT INJUNCTIVE RELIEF

WHEREAS Plaintiffs filed this action on November 17, 2008, alleging that Defendants violated, *inter alia*, their religious-liberty rights under the First Amendment to the U.S. Constitution and the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. §§ 2000cc, *et seq.*, by various actions taken pursuant to the municipal zoning code that have effectively prevented Plaintiffs from using the church and attached parsonage, located at 336 Madison Avenue in the Borough of Brookville ("Subject Property"), to house, shelter and minister to homeless individuals;

WHEREAS Plaintiffs also filed a Motion for Temporary Restraining Order and Preliminary Injunction, seeking to enjoin Defendants from taking any adverse land-use action against Plaintiffs, including, but not limited to, issuing any citations for violations of the Borough's Zoning Code for the residential use of the parsonage on the Subject Property to house, shelter, and minister to homeless individuals;

WHEREAS on November 19, 2008, the parties agreed to and the Court entered a consent order, granting Plaintiffs preliminary injunctive relief, which, after being modified and extended, is set to expire on April 30, 2009, unless further modified by court order.

WHEREAS the parties have reached an agreement to modify, extend, and make permanent the prior consent orders.

THE PARTIES HEREBY STIPULATE AND AGREE TO BE BOUND AS FOLLOWS:

1. This Order is entered based on a negotiated settlement between the parties and is not to be construed as an admission of liability by any of the parties.
2. This Order shall remain in effect from this date forward, unless modified by further Order of this Court, and shall supersede all preexisting consent orders pertaining to preliminary injunctive relief in this case.
3. Defendants (including their agencies, agents, elected officials, representatives, officers, employees, boards, or departments) shall not take any adverse land-use action against Plaintiffs, including, but not limited to, issuing any citations for violations of the Borough's Zoning Code for the occupancy of or overnight lodging in the parsonage on the Subject Property. Nothing in this Order prevents the Borough from enforcing reasonable health and safety regulations that are applied equally to all other structures in the Borough.
4. Plaintiffs agree that they will require all homeless guests and staff members residing overnight on the Subject Property to sign a covenant not to sue Defendants (including their agencies, agents, elected officials, representatives, officers, employees, boards, or departments) for any damages resulting from injury suffered on the Subject Property. The covenant not to sue referred to in the preceding sentence shall be in substantially the

same form as that attached as Exhibit A to this Order. Plaintiffs agree to be bound by the terms of said covenant not to sue.

5. This Order does not affect or resolve Plaintiffs' claims for damages.
6. This Consent Order shall be enforceable, via motions for specific enforcement or contempt, in this Court.

/s/ Witold J. Walczak
Witold J. Walczak
American Civil Liberties Foundation of PA

/s/ Mark R. Hamilton
Mark R. Hamilton
Cipriani & Werner, P.C.

Attorney for Defendants

/s/ J. Nicholas Ranjan
J. Nicholas Ranjan
K&L Gates LLP

Attorneys for Plaintiffs

This Order is hereby **APPROVED** on this ____ day of April, 2009, and the relief set forth herein is **GRANTED**.

Hon. Donetta W. Ambrose
Chief U.S. District Court Judge